



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

copy
Superfund Records Center
SITE: Bennington
BREAK: 11-8
OTHER: 549075

URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Tim Oeschger
Plant Manager
Johnson Controls, Inc.
P.O. Box 590
Bennington, VT 05201

AUG 29 1990

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Re: Original Request for Information from Corporations
Pursuant to Section 104 of CERCLA and Section 3007 of
RCRA, for Bennington Landfill in Bennington, Vermont;
hereinafter referred to as the "Site"

Dear Tim Oeschger:

The United States Environmental Protection Agency (EPA) is currently investigating the source, nature and extent of the release or threatened release of any hazardous substance, pollutant or contaminant, or hazardous waste on or about the Bennington Landfill in Bennington, Vermont (the Site). This investigation requires inquiry into the identification, nature, and quantity of materials that have been or are generated, treated, stored, or disposed of at the Site or transported to the Site. EPA also is requesting information relating to the ability of a person to pay for or to perform a cleanup of the Site.

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9604(e), and Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927, you are hereby required to respond to the Information Request set forth in the Enclosure accompanying this letter.

Compliance with the Information Request set forth in the Enclosure is mandatory. Failure to respond fully and truthfully to the Information Request within **thirty (30) days** of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by EPA pursuant to Section 104(e) of CERCLA, and/or Section 3008 of RCRA. Each of these statutes permits EPA to seek the imposition of penalties of up to **twenty-five thousand dollars (\$25,000) for each day** of continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001 or Section 3008(d) of RCRA.



This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Your response to this Information Request should be mailed to:

U.S. Environmental Protection Agency
Christian M. Rascher, Regional Project Manager
ME & VT Superfund Section
Post Office Box 1118
Waltham, MA 02254-1118

If you have any questions, please direct such questions to Richard F. Fastoso, Investigator, at (617) 573-9635. If no one is available to answer your call it will be picked up by an answering machine, please leave a message and someone will get back to you as soon as possible. If you have any technical questions, please direct such questions to Christian Rascher, Regional Project Manager, at the above address, or at (617) 573-5768.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond properly, EPA strongly encourages you to give this matter your immediate attention and to respond to this Information Request within the time specified above.

Thank you for your cooperation in this matter.

Sincerely,

Merrill S. Hohman, Director
Waste Management Division

Enclosure

cc. (Model letter with address list only)

Assistant Administrator,
Office of Enforcement and Compliance Monitoring
Bruce Marshall, Chief, Superfund Enforcement Support Section
Richard F. Fastoso, Investigator, Superfund Enforcement
Support Section
Christian M. Rascher, EPA Remedial Project Manager,
ME & VT Superfund Section
Stanley Corneille, Hazardous Materials Specialist, State of
Vermont, Department of Environmental Conservation

ENCLOSURE

Bennington Landfill

FIRST INFORMATION REQUEST

INSTRUCTIONS

1. You are required to provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request.
2. Precede each answer with the number of the question to which it corresponds and repeat the question.
3. If information or documents not known or not available to you on the date of submission of your response to this Information Request should become known or available to you at a later date, you must supplement your response to EPA. Moreover, should you find at any time after the submission of this response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.
4. The information requested herein must be provided even though the Respondent may contend that it includes confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F); Section 3007(b) of RCRA, 42 U.S.C. § 6927(b); and 40 C.F.R. 2.203(b). Please attach to such information, at the time it is submitted, a cover sheet with a stamped or typed legend, or other suitable form of notice employing language such as Trade Secret or Proprietary or Company Confidential. Information covered by such a claim will be disclosed by EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.
5. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. § 2.310(h)(1988), notwithstanding your assertion that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to its contractor, which EPA has retained to organize and analyze the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within ten (10) days of receiving this Information Request.

DEFINITIONS

The following definitions shall apply to the following words as they appear in this Attachment:

1. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, successors, assigns, and agents.
2. The term "person" as used herein includes, in the plural as well as the singular, any natural person, firm, unincorporated association, partnership, corporation, trust or other entity.
3. The terms "the Site" or "the facility" shall mean and include the twenty eight (28) acre parcel of land immediately North of Houghton Lane in Bennington, Vermont. The Site coordinates are 42 44' 40" Latitude and 73 12' 05" Longitude. The Site is bounded to the North by a sand and gravel pit, to the West by a rural residential area and apple orchards, to the East by a swampy area, and to the South by Houghton Lane a low density residential housing area.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such hazardous substances with any other substances, including petroleum products.
5. The term "pollutant or contaminant," shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances, including petroleum products.
6. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
7. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.
8. The term "materials" shall mean all substances that have been generated, treated, stored, disposed of, or otherwise handled at, or transported to the Site, including, but not limited to, any hazardous substance, pollutant or contaminant, hazardous waste and solid waste as defined above.
9. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.
10. The term "non-hazardous material" shall mean all material as defined above, excluding hazardous substances, pollutants and contaminants, and hazardous wastes.

11. The term "identify" means, with respect to a natural person, to set forth the person's name, social security number, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

12. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g. corporation, partnership, etc.), organization, if any, and a brief description of its business.

13. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

14. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

15. The terms "document" and "documents" shall include: (a) writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents; (b) microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; (c) any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (d) (1) every copy of each document which is not an exact duplicate of a document which is produced, (2) every copy which has any writing, figure or notation, annotation or the like of it, (3) drafts, (4) attachments to or enclosures with any document and (5) every document referred to in any other document.

ENCLOSURE

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16. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

17. The term "arrangement" means every separate contract or other agreement between two or more persons.

18. The terms "transaction" or "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.

19. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

20. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 CFR Part 300 or 40 CFR Parts 260-280, in which case the statutory or regulatory definitions shall apply.

QUESTIONS

FOR EACH AND EVERY QUESTION CONTAINED HEREIN, IDENTIFY ALL DOCUMENTS CONSULTED, EXAMINED, OR REFERRED TO IN THE PREPARATION OF THE ANSWER AND PROVIDE TRUE AND ACCURATE COPIES OF ALL SUCH DOCUMENTS.

GENERAL INFORMATION

- #1. Identify the person(s) answering these questions on behalf of Respondent.
- #2. List the EPA RCRA Identification Numbers of the Respondent, if any.
- #3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
- #4. Identify all persons, including Respondent's employees, who have knowledge or information about the generation, use, purchase, treatment, storage, disposal or other handling of materials at, or transportation of materials to, the Site.
- #5. For each and every Question contained herein, if information responsive to this Information Request is not in your possession, custody or control, then identify the persons from whom such information may be obtained.
- #6. Identify all persons, including you, who may have arranged for disposal or treatment or arranged for transportation for disposal or treatment of materials at or to the Site [or any transshipment site]. Such persons will hereinafter be referred to as "Generators." In addition, identify:
 - a. The persons with whom the Generators made such arrangements (if they were Respondents employees provide copies of the most recent W-2 Form).
 - b. Every date on which each Generator made such arrangements.
 - c. The nature, including the chemical content, characteristics, physical state (e.g., solid, liquid) and quantity (volume and weight) of all hazardous materials involved in each such arrangement, and briefly describe the process that generated these hazardous materials.
 - d. In general terms, the nature and quantity of the non-hazardous materials involved in each such arrangement.

- e. The owner of the hazardous materials involved in each such arrangement.
- f. All tests, analyses, analytical results or manifests concerning each hazardous material involved in such transactions.
- g. The precise locations at which each hazardous material involved in such transactions actually was disposed or treated.
- h. Who selected the location to which the hazardous materials were to be disposed or treated.
- i. Who selected the Site as the location at which hazardous materials were to be disposed or treated.
- j. The amount paid in connection with each such arrangement, the method of payment, and the identity of the persons involved in each arrangement.
- k. Where the persons identified in h., above, intended to have the hazardous materials involved in each arrangement treated or disposed and all evidence of their intent.
- l. All intermediate sites to which the hazardous materials involved in each arrangement were transshipped, or at which they were stored or held, any time prior to final treatment or disposal.
- m. What was done to the hazardous materials once they were brought to the Site.
- n. The final disposition of each of the hazardous materials involved in each arrangement.
- o. The measures taken by you to determine how and where treatment or disposal of the hazardous materials involved in each arrangement would actually take place.
- p. The markings on and type, condition and number of containers in which the hazardous materials were contained when they were stored, disposed, treated, or transported for disposal or treatment.

[FINANCIAL BACKGROUND QUESTIONS FOR CORPORATION PRP'S]

- #7. Identify all subsidiaries and parent corporations of Respondent.
- #8. Provide copies of the original and most current Articles of Incorporation and By-laws of Respondent.

- #9. Identify the managers and majority shareholders of Respondent and the nature of their management duties or amount of shares held, respectively.
- #10. Please state the correct legal name of your company, agency or business.
- #11. Identify the state of incorporation, agent for service of process for Respondent.

PLEASE BE SURE TO PROVIDE WITH YOUR RESPONSE TO THIS INFORMATION REQUEST ANY AND ALL SITE RELATED DOCUMENTS, INCLUDING, BUT NOT LIMITED TO, CANCELLED CHECKS, BILLING RECORDS, SHIPPING ORDERS, INVOICES, AND MANIFESTS WHICH EVIDENCE ALL ARRANGEMENTS MADE BY YOU FOR THE TREATMENT, DISPOSAL OR TRANSPORT OF ANY AND ALL HAZARDOUS SUBSTANCES.

ENCLOSURE B

PRP : Johnson Controls, Inc.
Business Type : battery manufacturer

Specific

- Questions :
- 1) Refer to enclosed documents #002729 and #002450:
 - a) describe the chemical composition of the industrial wastes
 - b) identify the location of solid waste disposal
 - 2) Refer to document #002454, what action was taken by respondent for the disposal of metallic sludge?
 - 3) Refer to enclosed documents #003263 and #003302, identify:
 - a) janitors
 - b) shipping clerks
 - c) watchmen
 - 4) Describe the manufacturing process of storage batteries and the waste stream that arises from this process.
 - 5) please submit the site development plans for the addition of an oxide mill to the rear of the plant in the CI-40 district (September, 1974).
 - 6) Did Champlain Security submit any reports to Globe Union? If so, please submit all documents.
 - 7) Refer to enclosed document #002940:
 - a) describe your corporate relationships with the companies listed at the base of the letter.
 - b) provide the concentration of sulfuric acid and other chemicals in the floor scrubbing.
 - 8) Submit plans for the bafffle system installed in the battery charging area in 1970.
 - 9) Where does all discharged lead oxide eventually end up?
 - 10) Refer to enclosed document #002903, what action was taken by respondent pursuant to the recommendation by the Town of Bennington for industrial waste disposal in a tank?
 - 11) Refer to enclosed docuement #003139, did you ever use any of the companies listed in this letter?

12) Refer to document #002894, what arrangements were made for the disposal of liquid wastes after the cease dumping order?

13) Refer to enclosed document #002970, identify:

- a) J.V. Tierney, Jr.
- b) J.J. Groff
- c) S.L. Strand
- d) W.D. Coulter

14) Refer to enclosed document #003126, identify and interview James Williams to determine past disposal practices of Globe Union.

15) Provide the chemical composition, waste amounts, disposal dates and ultimate disposal location for lead wastes, neutralized acids, filters containing lead dust, machine shop liquid wastes. wooden pallets and battery plates.

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE
USE, \$300

**RETURN
TO**



Print Sender's name, address, and ZIP Code in the space below.

US Environmental Protection Agency
Christian M. Rascher, Reg. Project Mgr.
ME & VT Superfund Section
Post Office Box 1118
Waltham, MA 02254-1118

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

Tim Oeschger
Plant Manager
Johnson Controls, Inc.
P.O. Box 590
Bennington, VT 05201

4. Article Number

P 287 675 371

Type of Service:

- | | |
|---|--|
| <input type="checkbox"/> Registered | <input type="checkbox"/> Insured |
| <input checked="" type="checkbox"/> Certified | <input type="checkbox"/> COD |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> Return Receipt
for Merchandise |

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

8-31-90

8. Addressee's Address (ONLY if requested and fee paid)

P 287 625 371

RECEIPT FOR CERTIFIED MAIL

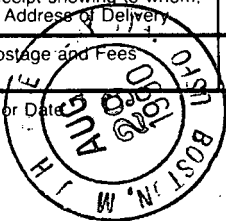
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

Tim Oeschger
Plant Manager
Johnson Controls, Inc.
P.O. Box 590
Bennington, VT 05201

☆ U.S.

PS Form 3800, June 1985

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	



**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.